IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.V.K.BALI
&
THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

TUESDAY, THE 12TH DECEMBER 2006 / 21ST AGRAHAYANA 1928

WA.No. 760 of 2006()

AGAINST THE JUDGEMENT/ORDER IN WPC.5733/2006 Dated 27/02/2006
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APPELLANT: PETITIONERS:
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1. VIJAYABHANU, S/O. MADHAVAN,
AYYANKALA, PADINJATTINKARA NORTH,
KUNNATHUR, KOLLAM.

2. NAGANANDA SWAMY, S/O. RATNAMOORTHY
GOUNDER, VELLARAMKALMEU, KOZHIPPILLY VILLAGE,
VENNAMEDA, CHITTOOR, PALAKKAD.

3. V. RAMAKRISHNAN, S/O. PUTHOORPURAKKAL
DIVAKARAN, THULAMPARAMBU NORTH,
HARIPAD VILLAGE, KARTHIKAPPALLY TALUK,
ALAPPUZHA.

4. SASEENDRAN NAIR, S/O. RAGHAVA KURUP,
CHAMIVILAYIL, ERUMAKKUZHI MURI,
PALAMEL VILLAGE, MAVELIKKARA TALUK,
ALAPPUZHA DISTRICT.

5. T. PRAKASH, S/O. RAGHAVA KURUP,
CHAMAVILAYIL, PALAMEL VILLAGE,
MAVELIKKARA, ALAPPUZHA DISTRICT.

6. R. DEVARAJAN, S/O. RAJAPPAN,
KAUSTHUBHAM, KALARKODE PARAVOOR VILLAGE,
AMBALAPPUZHA TALUK, ALAPPUZHA DISTRICT.

BY ADV. SRI.K.K.BABU

RESPONDENTS:
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1. THE WELFARE FUND INSPECTOR,
KERALA TODDY WORKERS WELFARE FUND BOARD,
PALAKKAD.

2. THE JOINT SECRETARY, GOVERNMENT OF
KERALA, LABOUR REHABILITATION (S) DEPARTMENT
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

3. THE TAHSILDAR (R.R.), CHITTOOR TALUK,
PALAKKAD.

4. THE DEPUTY TAHSILDAR (R.R.),
KARTHIKAPPILLY TALUK, HARIPAD, ALAPPUZHA.

5. THE DEPUTY TAHASILDAR,
AMBALAPPUZHA TALUK, ALAPPUZHA.

6. THE DEPUTY TAHASILDAR (R.R.)
KARUNAGAPPALLY.

R1 BY SC SRI. A.K. JOHN
R2 TO R6 BY SR. G.P. SRI. M.R. SABU

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 12/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

V. K. BALI, C.J. &
C.N.RAMACHANDRAN NAIR, J.

W.A. NO. 760 OF 2006

Dated this the 12th day of December, 2006

JUDGMENT

V.K. BALI, C.J. (ORAL)

The appellants, who were the petitioners before the learned single Judge, challenged, by way of Writ Petition under Article 226 of the Constitution, Ext.P4 order passed by the authority under the Toddy Workers Welfare Fund Act. By Ext.P4 order, the concerned authority, the Inspector, assessed contribution payable by the petitioners under the Act. The appeal filed against that order was dismissed by the second respondent by Ext.P5 order dated 7.9.2005. It is these two orders that were challenged in the Writ Petition. All that was urged in support of the petition was that wages for 76 days during which period workers did not work was taken into account for the purpose of assessing contribution. Further that, 42 workers who did not work during the relevant year were also included for the purpose of assessing contribution. The contention was repelled by the learned single Judge

observing that there was no evidence produced before the assessing authority. Not only no evidence was produced before the authorities, but in the Petition filed under Article 226 nothing was brought before the Court. It appears that the learned single Judge rightly observed that the best evidence regarding this was acquittance rolls that the petitioners are liable to maintain under the statute, but the petitioners did not maintain acquittance rolls. The contention raised before the learned single Judge was only repeated before us. Since the contention is in the realm of fact, it shall be difficult to differ with the well-reasoned order passed by the learned single Judge. Writ Appeal is accordingly dismissed.

(V. K. BALI)
Chief Justice

(C.N.RAMACHANDRAN NAIR)
kk Judge